

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon. Michael Hammer
	:	
v.	:	Mag. No. 18-4041
	:	
TIMOTHY YATES	:	CRIMINAL COMPLAINT


I, Bradley J. Benwell, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with the U.S. Department of Homeland Security, Homeland Security Investigations and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached pages and made a part hereof.


Special Agent Bradley J. Benwell
Department of Homeland Security
Homeland Security Investigations


Sworn to before me and subscribed in my presence,

April 3, 2018

Date _____

at Essex County, New Jersey
County and State

HONORABLE MICHAEL A. HAMMER
UNITED STATES MAGISTRATE JUDGE


Signature of Judicial Officer

ATTACHMENT A

COUNT ONE

From in or about November 2016 through in or about May 2017, in Essex County, in the District of New Jersey and elsewhere, the defendant

TIMOTHY YATES

did knowingly receive and distribute child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), that had been mailed, and using any means and facility of interstate and foreign commerce, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer.

In violation of Title 18, United States Code, Section 2252A(a)(2)(A) and 2252A(b)(1) and Title 18, United States Code, Section 2.

ATTACHMENT B

I, Bradley J. Benwell, am a Special Agent with the U.S. Department of Homeland Security, Homeland Security Investigations. I am fully familiar with the facts set forth herein based on my own investigation, my conversations with other law enforcement officers, and my review of reports, documents, and items of evidence. Where statements of others are related herein, they are related in substance and part. Because this complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

Background

1. At all times relevant to this Complaint, defendant TIMOTHY YATES ("YATES") was a resident of West Orange, New Jersey.

The Investigation

2. On or about (1) November 25, 2016, from approximately 9:18 p.m. to approximately 10:26 p.m.; (2) December 5, 2016 from approximately 3:10 a.m. to approximately 3:59 a.m., and (3) January 28, 2017 from approximately 12:11 a.m. to approximately 1:05 a.m. ("the Online Sessions"), law enforcement officers working in an undercover capacity accessed a publicly available peer-to-peer ("P2P") network over the Internet and observed that a computer with a certain Internet Protocol ("IP") addresses was logged into the network. The investigation revealed that these IP addresses were associated with a computer used by an individual later identified as defendant YATES. According to the data from the P2P network reviewed by law enforcement, defendant YATES was sharing files previously documented to include known images of child pornography.

3. During the Online Sessions, law enforcement downloaded numerous videos of what appeared to be child pornography via the P2P network from the computer with the IP address associated with YATES. Three of the files downloaded by the undercover agents from defendant YATES during the Online Sessions are described as follows:

FILENAME	DESCRIPTION
<p>File Name/Number:</p> <p>(Pthc) Tara Brand New</p> <p>Hash Value:</p> <p>8433baa8fa6bc11f9051fa4b792d2bf2cf5bd6b9</p>	<p>This video file, only a small portion of which was successfully downloaded by law enforcement, would run approximately 17 minutes and 41 seconds in total if fully downloaded. The portion which was successfully downloaded begins by displaying the words "Tara 8yo Anal Collection" in white letters against a black background. The next downloaded segment shows a naked, overweight male to the left of the screen who is visible from his knees to his chest. The male is penetrating a prepubescent girl from behind. The girl, who appears to be between 7 and 9 years in age, is on her knees and elbows on a bed and is wearing a light green tee shirt. A painting of a woman is visible on the wall in the background. The next segment depicts the overweight male anally penetrating the girl with the camera apparently being held by the adult male as he looks down. (This is a well-documented video of child pornography. In portions of the video which were not captured by law enforcement on this occasion, the adult male also penetrates the prepubescent girl with a sex toy, receives fellatio from the girl, and vaginally penetrates her. The girl wears a mask with red and yellow feathers during much of the video.) This video file was partially downloaded by law enforcement during a session lasting between approximately 9:18 p.m. and 10:26 p.m. on or about November 25, 2016.</p>

FILENAME	DESCRIPTION
<p>File Name/Number:</p> <p>Nelia 10yo 03</p> <p>Hash Value:</p> <p>850d67a8232c0b114f3b8b26e96319d6</p>	<p>This video, which is approximately 14 minutes and 59 seconds in duration, begins by showing a girl who appears to be between 9 and 11 years in age, seated on a couch covered with a blanket with a light green and lavender square pattern with gold and yellow flower designs. The girl, who has medium brown wavy hair extending below her shoulders, removes a light colored shirt and black pants and remains nude for the entirety of the video which is spent lying on the couch in various positions. Shortly after undressing, the girl picks up a gold and black cylindrical sex toy in her right hand and inserts its tip into her vagina. As she changes positions while using the sex toy on both her vagina and anus, the camera periodically zooms in on her vaginal and anal regions. At times, the girl rests her head or elbow on the arm of the couch while continuing to maneuver the sex toy between her vagina and anus. This video file was downloaded by law enforcement during a session lasting from approximately 3:10 a.m. to 3:59 a.m. on or about December 5, 2016.</p>
<p>File Name/Number:</p> <p>Valya - 38</p> <p>Hash Value:</p> <p>fadd0a6130c59eff1313d72a3897343ef556cca</p>	<p>This video, which is approximately 45 minutes and 22 seconds in duration, begins by depicting a girl who appears to be between 9 and 11 years in age standing in front of a medium brown wooden door with several items of clothing hung on the wall to the door's immediate right. On the back of the door is a poster with the year "1996" clearly visible. The girl, who wears a necklace, has medium brown hair in</p>

FILENAME	DESCRIPTION
	<p>bangs that is pulled back in a ponytail. At the start of the video, she removes a lavender and white sweater revealing a white patterned sleeveless shirt and black pants. The girl briefly dances about and then removes the black pants and her undergarments before sitting on a bed with a red, blue and yellow blanket that is to the immediate left of the door. After the girl briefly holds a remote control device, the camera zooms in on the girl's exposed vagina which the girl spreads apart with her own fingers. The girl then applies lotion from a white bottle to her vaginal area which she stimulates with her right index finger. She then uses the tip of what appears to be a yellow-colored tapered candle to stimulate her vagina for approximately 10 minutes. The camera frequently focuses in on her vagina during this period. At times, what appears to be the index finger of the right hand of an adult male can be seen stimulating the girl's vagina, alternating with the girl's own hand. Near the conclusion of the video, the camera pans back to show that the girl is bent over while on her knees with her vagina exposed to the camera. This video file was downloaded by law enforcement during a session lasting between approximately 12:11 a.m. and 1:05 a.m. on or about January 28, 2017.</p>

4. On or about May 2, 2017, law enforcement officers executed a search warrant at defendant YATES' residence in West Orange, New Jersey ("the Residence"). During the search, law enforcement discovered electronic devices belonging to defendant YATES at the Residence.

5. A preliminary forensic review of the devices by law enforcement revealed voluminous images and videos of child pornography, including approximately 2,790 images and 284 videos depicting child pornography, as defined by Title 18, United States Code, Section 2256(8), which contained certain content described above in Paragraph 3 and other content previously detected by law enforcement as being associated with YATES.

6. During and after the search of the Residence, and after being advised of his *Miranda* rights, defendant YATES admitted to law enforcement officers, among other things, in substance and in part, that: (1) he uses a P2P file sharing program to download and share child pornography; (2) he stores the images and videos that he downloads on his computers; and (3) he has a large library of child pornography that he has compiled over approximately 5-6 years amassed on his computers, noting that "I got addicted to building the collection."

7. During interviews with law enforcement following the search of the Residence, YATES willingly submitted to a polygraph examination. The results of the polygraph examination indicated that YATES exhibited deception, particularly when he denied previously engaging in inappropriate physical contact with a child.

8. During an interview with law enforcement following the search of the Residence, YATES advised that he is a self-employed comic book artist. YATES further stated that, in May 2015, he attended a comic book signing event in Texas where he met a 10-year-old girl, identified herein as "K." YATES became aroused when K placed her arm around him to take a picture with him at the event. YATES stated that he thereafter developed "an obsession" with K following this interaction, and began to masturbate to thoughts of her and collect photographs of girls that looked like her.

9. YATES also personally drew a series of comic book images depicting him and K engaging in various stages of graphic sexual activity. In describing his comic book drawings to law enforcement, YATES stated: "the drawings are the darkest part because that's where the real scary fantasies of forced sex, like rape with minors and adults becomes reality." YATES maintained a folder of his drawings—which he named "Diary"—on his computer.

10. YATES denied directly trying to contact K, but admitted that he became "Facebook friends" with K's parents on the social media platform.

11. Based upon my education, training and experience, and my discussions with other law enforcement officers, and to the best of my knowledge, the images described above traveled in interstate commerce and were produced using materials that were mailed and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, that is, the images and/or videos were downloaded from the Internet via the P2P network, based upon, among other things, their presence on defendant YATES' electronic devices and law enforcement's knowledge that defendant YATES has shared these images and/or videos on an internet-based P2P network.